

Redacted



From: Miller, Jeff
Sent: Tuesday, October 11, 2011 1:10 PM
To: 'maria.litman@chartisinsurance.com'
Subject: Claim No. 182-082669: Claims against Kaiser Cement Corporation by EPA at Lower Duwamish Waterway Superfund Site

Hello again Maria,

Some of this will mirror my email correspondence to Ms. Cantin that was forwarded to you.

I am writing in response to your letter dated February 28, 2011 (attached) in which you acknowledged the receipt of Kaiser Cement Corporation's December 22, 2010 notice letters to Lexington, Granite State, ICSOP, and Landmark.

In the letter you asked for a copy of Landmark policy IMB-455-7233. The policy documentation that we have for this policy is attached to this email. This endorsement was located in the policy materials for Landmark No. FE-400-12-06.

As you know, we also represent the Kaiser Gypsum Company, Inc. with respect to insurance coverage for any liability it has related to the Lower Duwamish Waterway Site. Kaiser Gypsum and Kaiser Cement are separate legal entities that owned and operated facilities at different locations on the Lower Duwamish Waterway and received separate Section 104(e) information requests from the U.S. Environmental Protection Agency ("EPA"). The two entities have separately

responded to EPA's information request and continue to incur separate and distinct defense costs. Accordingly, Kaiser Gypsum sent separate notice letters dated December 21, 2010 to Lexington, Granite State, ICSOP, and Landmark. With the exception of the notice to Lexington, which was acknowledged by Diana Cantin in a January 4, 2011 email, these notice letters have not been acknowledged by the insurers. The claims tendered to the insurers by Kaiser Cement and Kaiser Gypsum are separate and distinct claims for coverage under the relevant policies. We would greatly appreciate it if you would acknowledge Kaiser Gypsum's notice letters to the insurers that you are handling claims for. It would also be helpful if you assign a unique Chartis claim number to Kaiser Gypsum's claims for coverage under the excess policies. We note that Ms. Cantin assigned a claim number of 182-115769 when she acknowledged the Lexington notice letter.

Thank you for your assistance.

Jeff

RECEIVED

MAR - 8 2011

CHARTIS

Chartis Claims, Inc.

Environmental Claims

101 Hudson Street, 30th Floor
Jersey City, New Jersey 07302

Tel.: (201) 631-7294

Fax: (866) 402-9264

maria.litman@chartisinsurance.com

February 28, 2010

Via Certified Mail – Return Receipt Requested

Steven F. Hill, Esq.

Miller Nash

500 East Broadway, Suite 400

Vancouver, Washington 98660-3324

Re:	Insured:	Kaiser Cement Corporation
	Site:	Lower Duwamish Waterway Site
	Location:	Seattle, Washington
	Claimant:	United States Environmental Protection Agency
	Policies:	<i>Granite State Insurance Company –</i> 6184-4363 (5/1/84 – 4/1/85) <i>Insurance Company of the State of Pennsylvania –</i> 411-4919, 411-4969, 411-4970 (1/1/71 – 1/1/74); 174-5841, 4174-5842, 4174-5843, 4174-5844 (1/1/74 – 1/1/77); 41777436, 1777437, 1777438 (1/1/77 – 10/1/77) <i>Lexington Insurance Company –</i> GC5502895 (10/7/77 – 10/1/78), 5513539 (10/1/78 – 4/1/79), 5513581 (4/1/79 – 4/1/80), 5514410 (4/1/80 – 4/1/81) <i>Landmark Insurance Company –</i> IMB-455-7233 (End. Eff. 1/29/81), E4001206 (4/1/81 – 4/1/82), FE4001234 (4/1/82 – 4/1/83)
Claim No.		182-082669

RESERVATION OF RIGHTS

Dear Mr. Hill:

Chartis Claims Inc., (formerly known as AIG Domestic Claims, Inc.) a member company of Chartis Inc., is the authorized claims handling representative for National Union Fire Insurance Company of Pittsburgh, PA ("National Union"); Granite State Insurance Company ("Granite State"); Insurance Company of the State of Pennsylvania ("ICSOP"); Lexington Insurance Company ("Lexington"); and Landmark Insurance Company ("Landmark"), all member underwriting companies of Chartis Inc.

KG2005463

We would like you to know that we appreciate and value Kaiser Cement Corporation ("Kaiser") as a customer and are committed to working closely with the Insured in this matter. If the Insured has questions or concerns after reading this letter, please feel free to contact me.

This claim was tendered under the following primary and excess policies:

Primary –

National Union – 9150324 (4/1/85 – 4/1/86)
9150326 (4/1/85 – 4/1/86)

Excess –

Granite State – 6184-4363 (5/1/84 – 4/1/85)

ICSOP – 411-4919, 411-4969, 411-4970 (1/1/71 – 1/1/74);
4174-5841, 4174-5842, 4174-5843, 4174-5844 (1/1/74 – 1/1/77);
41777436, 41777437, 41777438 (1/1/77 – 10/1/77)

Lexington – GC5502895 (10/7/77 – 10/1/78),
5513539 (10/1/78 – 4/1/79),
5513581 (4/1/79 – 4/1/80),
5514410 (4/1/80 – 4/1/81);

Landmark – IMB-455-7233 (End. Eff. 1/29/81),
FE4001206 (4/1/81 – 4/1/82),
FE4001234 (4/1/82 – 4/1/83)

This letter will discuss only the Granite State, ICSOP, Lexington and Landmark excess policies; the National Union primary policies have been addressed in a separate letter.

According to the terms and conditions of excess policies, Granite State, ICSOP, Lexington, and Landmark are under no obligation to pay any sums until the retained limits have been exhausted. We have received no evidence that the retained limits have been exhausted or are nearing exhaustion. Therefore, at this time, we must regard your notice of claim as precautionary; however, if our conclusion is incorrect, please provide evidence of exhaustion of the retained limits. In addition, we have been unable to locate alleged Landmark policy IMB-455-7233 and request that you provide a copy of this policy.

It is our understanding from the information provided that the Lower Duwamish Waterway ("LDW"), located in Seattle Washington, has been placed on the National Priorities List as a federal Superfund Site due to the release of hazardous substances in or around the Waterway. The United States Environmental Protection Agency ("US EPA") sent a Request for Information to Kaiser on February 19, 2010 regarding the Insured's historical ownership of and operations on property along the LDW. Kaiser has only been able to confirm that it owned property and conducted cement operations at two separate locations along the LDW, that is, 5906 West Marginal Way S.W. ("the Westside Property") and 5975 East Marginal Way S ("the Eastside Property"), both of which are within the boundaries of the Superfund Site.

Kaiser purchased a portion of the Eastside Property in June 1944 and constructed a cement distribution facility which started operations in October 1946. The facilities on the Eastside property that were owned and operated by Kaiser included a dolphin pier, silos, storage facilities, a sacking plant, railroad spurs, truck loading accommodations, and an office building. In December 1953, Kaiser sold a portion of the Eastside Property to Kaiser Gypsum Company, Inc.

KG2005464

3

In October 1958, Kaiser purchased additional property, including a water inlet, from Commercial Waterway District No. 1, in order to expand the Eastside Property.

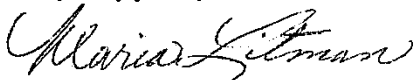
In January 1965, Kaiser entered into a long-term lease with the Port of Seattle ("the Port") for the Westside Property. A condition of the lease required Kaiser to build a cement manufacturing and distribution facility. This facility was constructed and began operations in 1967. Thereafter, in May 1969, Kaiser entered into a real estate contract with the Port and the Insured acquired fee title in the Westside Property on September 17, 1973.

On October 1, 1985, Kaiser sold all of its interest in the remainder of the Eastside Property to Riedel International, Inc.; and, on April 14, 1987, it sold all of its interest in the Westside Property to Lone Star Industries, Inc.

Chartis Claims, Inc. submits this letter on behalf of Granite State, ICSOP, Lexington, and Landmark, reserving its rights and defenses in every respect under the terms, conditions, and provisions contained in the noted policies, and in any other Chartis-related company policy you may identify, as well as all rights and defenses that may be available in law and equity. Any actions taken by or on behalf of Granite State, ICSOP, Lexington, and Landmark, or any other Chartis-related company, should not be construed as a waiver of those rights and defenses, an admission of liability, or an admission of coverage.

If you have any questions, please contact me at (201) 631-7294.

Very truly yours,



Maria Litman
Complex Director
Environmental Claims

KG2005465

CONFIDENTIAL BUSINESS INFORMATION

It is agreed that this Policy/Cert. is hereby amended as indicated by ☒

☐ IN CONSIDERATION OF: ☐ AN ADDITIONAL PREMIUM OF \$ _____
☐ A RETURN PREMIUM OF \$ _____
IT IS UNDERSTOOD AND AGREED THAT THE

☐ IT IS HEREBY UNDERSTOOD AND AGREED THAT THE

- | | | |
|---|---|---|
| <input type="checkbox"/> Premium | <input type="checkbox"/> Deductible | <input type="checkbox"/> Address of location of property |
| <input type="checkbox"/> Installment | <input type="checkbox"/> Self Insured Retention | <input type="checkbox"/> Policy <input type="checkbox"/> Cert. <input type="checkbox"/> End. No. is cancelled |
| <input type="checkbox"/> Audit | <input type="checkbox"/> Rate | <input type="checkbox"/> Pro rata <input type="checkbox"/> Short rate <input type="checkbox"/> Flat |
| <input type="checkbox"/> Description of property covered | <input type="checkbox"/> Deposit premium | <input type="checkbox"/> Name of assured |
| <input type="checkbox"/> Schedule of Underlying Insurances | <input type="checkbox"/> Inception date | <input type="checkbox"/> Policy/Cert. period |
| <input type="checkbox"/> Coverage | <input type="checkbox"/> Expiration date | <input type="checkbox"/> Address of the assured |
| <input type="checkbox"/> Company shall provide _____ days notice in event of cancellation, except in the event of non-payment of premium. | <input type="checkbox"/> Limit of Liability | <input type="checkbox"/> Amount of Insurance |

☐ Is amended to READ / INCLUDE / EXCLUDE ☐ Is charged for the period

IT IS AGREED THAT THE LIMITS OF LIABILITY ARE AMENDED TO \$25,000,000. PART OF \$50,000,000. EXCESS OF \$50,000,000.

All other terms and conditions remain unchanged. Effective date of this endorsement is: JANUARY 29, 1981

Attached to and forming part of Policy/Cert. No. IMB 455-7233

Issued to: KAISER CEMENT CORPORATION

Landmark Insurance Company
LOS ANGELES, CALIFORNIA 90010

Dated: AUGUST 13, 1981 GAT/wh

By 
ENDORSEMENT NO. 3

LANG 107 (9-79)

30008360

KG2005466